

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 27.80
Title 14, California Code of Regulations
Re: Ocean Salmon Sport Fishing

- I. Date of Initial Statement of Reasons: December 15, 2006
- II. Date of Amended Initial Statement of Reasons: March 14, 2007
- III. Date of Final Statement of Reasons: April 16, 2007
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 2, 2007
Location: Monterey, CA
 - (b) Discussion Hearing: Date: March 2, 2007
Location: Arcata, CA
 - (c) Adoption Hearing: Date: April 13, 2007
Location: Bodega Bay, CA
- V. Update:

The Pacific Fishery Management Council (PFMC) adopted Option 1 with a minor modification from the Amended Initial Statement of Reasons to amend Section 27.80, Title 14, California Code of Regulations. The minor modification is to change the opening date for the area north of Horse Mountain and Humboldt Bay to May 5 instead of May 1.

The Fish and Game Commission adopted the revised Option 1 for the state regulations at its April 13, 2007 meeting.

- VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:
 - (1) Bill Kendall, e-mail dated March 27, 2007:
 - a. He requested the ocean salmon possession limit be raised to 4 fish from 2 fish for non-residents and fishermen who reside east of Interstate 5 in California.

Response:

- a. The conditional increase in possession limit leads to enforcement issues and was rejected during the PFMC stakeholder discussions. The Department supports the PFMC decision.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The PFMC will examine various alternatives in the process of adopting the management options on March 9, 2007 for public review. These may include such alternatives as:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

(b) No Change Alternative:

Upon approval of the PFMC's recommendations by the NMFS, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon in State waters (0 to 3 miles offshore) to the Federal regulations in order for the new State and Federal regulations to become effective at the same time. Otherwise, preemption of State regulatory authority by the NMFS could occur if State regulations are in conflict with Federal regulations.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons as the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The 2007 ocean recreation salmon regulations result in a 12.8 percent increase in available ocean salmon angling days as compared to 2006. The incremental impacts to total economic output, from the proposed 2007 ocean recreation salmon regulations, could be as much as a \$2.1 million increase in output for industries that provide goods and services to ocean salmon anglers. Industry output projections are \$2,121,400. Consequently, the 2007 salmon regulations would not have an adverse impact to businesses, relative to year 2006. It is unlikely that this would affect the ability of California businesses to compete with businesses in other states.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

With the 2007 ocean recreation salmon regulations adopted by the PFMC, the incremental economic impacts to jobs within the State may increase by 25 new full-time job equivalents. Likewise positive impacts to total personal earnings could result in an increase of \$1,095,300.

- (c) Cost Impacts on a Representative Private Person or Business:

There are no new or additional reporting requirements called for in the proposed regulations. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Other Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed to Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

Updated Informative Digest (Policy Statement Overview)

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean fishing regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). The PFMC is responsible for adopting annual recommendations for the management of sport and commercial ocean fisheries in the Federal fishery management zone (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service (NMFS).

The State's recreational fishing regulations will need to conform to the new Federal rules. The Fish and Game Commission (Commission) adopts regulations for the ocean salmon sport fishery in State waters (0 to 3 miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

The text in bold below replaces the text from original Initial Statement of Reasons (ISOR) and Informative Digest. This text was replaced since the PFMC March recreational season options shown below allow for better fishing opportunities than portrayed in the original ISOR.

Since the development of the ISOR, the PFMC released its *Preseason Report I: Stock Abundance Analysis for 2007 Ocean Salmon Fisheries* which predicts a higher than previously expected Klamath River Fall Chinook (KRFC) ocean abundance for 2007. This projection provides for increased recreational fishing opportunities from the 2006 season.

At its meeting March 5-9, 2007 in Sacramento, California, the PFMC proposed three 2007 season options for public review which provide a range of 9 to 13 percent increase overall in the available fishing days as compared to 2006. The final PFMC regulation recommendations will be made on April 6, 2007 in Seattle, Washington.

Under all three options, the season structure is similar to 2006 regulations except as follows:

Option 1

Seasons: For north of Horse Mountain and Humboldt Bay (Klamath Management Zone), the open season is May 1 to September 4 (70 more days). The area between Horse Mountain and Point Arena is open from February 17 to November 11 (20 more days). The area between Point Arena and Pigeon Point (below San Francisco) is open from April 7 to November 11 (three fewer days). The area south of Pigeon Point is open from April 7 to October 7 (seven more days).

Option 2

Seasons: For north of Horse Mountain and Humboldt Bay, the open season is May 26 to September 5 (46 more days) with an eight fish in seven consecutive days weekly bag limit. The area between Horse Mountain and Point Arena is open from February 17 to November 11 (20 more days). The area between Point Arena and Pigeon Point is open from April 7 to November 11 (three fewer days). The area south of Pigeon Point is open from April 7 to October 7 (seven more days).

Option 3

Seasons: For north of Horse Mountain and Humboldt Bay, the open season is May 26 to July 4 and July 15 to September 9 (40 more days) with a six fish in seven consecutive days weekly bag limit. The area between Horse Mountain and Point Arena is open from February 17 to November 11 (20 more days). The area between Point Arena and Pigeon Point is open from April 7 to November 11 (three fewer days). The area south of Pigeon Point is open from April 7 to October 7 (seven more days).

For all options, the 2008 opening dates between Horse Mountain (above Shelter Cove) and Point Arena (below Fort Bragg) will be February 16, and April 5 south of Point Arena. Additional minor changes were made to the regulations for clarity.

The PFMC adopted Option 1 with a minor modification from the Amended Initial Statement of Reasons to amend Section 27.80, Title 14, California Code of Regulations. The minor modification is to change the opening date for the area north of Horse Mountain and Humboldt Bay to May 5 instead of May 1.

The Commission adopted the revised Option 1 for the state regulations at its April 13, 2007 meeting.